

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ALI ABDUL HAKIM,)	CASE NO.: 3:13 CV 969
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>ORDER ADOPTING MAGISTRATE'S</u>
)	<u>REPORT AND RECOMMENDATION</u>
KEVIN JONES,)	
Warden,)	
)	
Respondent.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge William H. Baughman, Jr. (ECF #14). The Report and Recommendation, issued on February 13, 2014, is hereby ADOPTED by this Court. Petitioner Ali Abdul Hakim filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner requested an extension of time to file his objections to Magistrate Judge Baughman's Report and Recommendation by March 31, 2014 (ECF #15); and this Court granted Petitioner leave until March 17, 2014 to file his objections (ECF #16). Petitioner untimely filed objections to the Magistrate Judge's Report and Recommendation on March 19, 2014 (ECF #17).

This Court has since reviewed Magistrate Judge Baughman's Report and Recommendation *de novo*, and finds it to be thorough, well-written, and correct. *See* FED. R. CIV. P. 72(b)(3). This Court also finds that Petitioner Abdul Hakim's untimely objections to the Magistrate Judge's Report – while extensive – raise no arguments, either factual or legal, that have not already been comprehensively and competently addressed by the Magistrate Judge's Report. Without exception, this Court finds the Magistrate Judge's treatment of Petitioner's arguments to be correct and fair, and therefore adopts the Report in its entirety, over Petitioner's objections.

Specifically, Magistrate Judge Baughman did not error in finding that Petitioner has not demonstrated that he was diligent in pursuing his right to appeal within the 17-day period afforded him between receiving notice of the Ohio Sixth District Court of Appeals decision and the deadline for filing an appeal from that decision with the Ohio Supreme Court, as is required to establish a right to equitable tolling. Petitioner's petition for habeas relief is untimely, and this untimeliness is not excused by statutory or equitable tolling, nor by making a credible showing of actual innocence. *See Souter v. Jones*, 395 F.3d 577, 590 (6th Cir. 2005).

Magistrate Judge Baughman recommended in his well-reasoned Report that Ali Abdul Hakim's Petition for Writ of Habeas Corpus be denied, and this Court finds no reason to disagree with that recommendation. Therefore, the Report and Recommendation (ECF #14) is ADOPTED by this Court in its entirety, and Abdul Hakim's Petition for Writ of Habeas Corpus is DENIED; furthermore, Petitioner's Motion to Compel (ECF #13) is DENIED as moot.

Further, for the reasons stated in this Order and in the Magistrate Judge's Report, a reasonable jurist could not conclude that dismissal of the Petition is in error or that Petitioner should be permitted to proceed further. Accordingly, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.



JUDGE DONALD C. NUGENT
United States District Judge

DATED: March 31, 2014